

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 3RD OCTOBER 2006 / 11TH ASWINA 1928

MFA.No. 659 of 1997(B)

WCC.542/1992 of W.C.C.,KOZHIKODE
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APPELLANT:

A.P.MOHAMED, ALAPPURAYIL HOUSE,
P.O.VAVAD, (VIA) KODUVALLY.

BY ADV. SRI.SUNNY MATHEW

RESPONDENTS:

1. C.P.MOHAMED, CHENGALAT PARAMBIL HOUSE,
(P.O.) R.E.C., KOZHIKODE DISTRICT. (DELETED)

2. THE NEW INDIA ASSURANCE COMPNAY LTD.,
EAST NADAKKAVU, KOZHIKODE-11.

R2 BY ADV. SRI.M.JACOB MURICKAN

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD
ON 03/10/2006, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

Thottathil B. Radhakrishnan, J.

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M.F.A.No.659 of 1997

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Dated this the 3rd day of October, 2006.

JUDGMENT

This is an appeal by the claimant under the Workmen's Compensation Act. Such an appeal would lie only on a substantial question of law.

2. The principal ground raised in the appeal memorandum is as regards the applicability of the amendment to the Act brought on 15-9-1995. That question stands answered against the appellant by the decision of this Court in **K.S.E.B. v. Valsala (1999 (3) K.L.T. 348)** and by the Full Bench decision of this Court in **United India Insurance Co.Ltd. v. Alavi (1998 (1) K.L.T. 951)**.

3. Having heard the parties, I am satisfied that the impugned award does not warrant interference as regards the amount of compensation awarded but requires modification as regards the interest portion is concerned. The Tribunal had imposed an order of

interest at 6% per annum only as an additional clause on failure of the insurance company to deposit the compensation amount within thirty days of the receipt of the impugned order. It is the provision of the statute that interest at 6% will accrue on the compensation amount from the date of accident, which, in the instant case is, 22-8-1992, though the award is passed by the Commissioner on 22-1-1997. I am satisfied that the said illegality in the judgment gives rise to a substantial question of law for interference and the same is liable to be rectified.

In the result, this appeal is partly allowed directing that the appellant will be entitled to interest at 6% per annum on Rs.20,786/- from the date of the accident, that is, 22-8-1992 till the date of deposit of the principal amount. No costs.

Thottathil B.Radhakrishnan,
Judge.

sl.

MFA659/1997

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Thottathil B. Radhakrishnan, J.

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M.F.A.No.659 of 1997

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JUDGMENT

Dated:3-10-2006